

Statement as to How Preslar Differs From Social Security Policy

At step five of the sequential evaluation, SSA considers a claimant's chronological age in conjunction with residual functional capacity, education and work experience to determine whether a claimant can do work other than past relevant work. SSA weighs the effect of increasing age by the extent it erodes a claimant's ability to adapt to new work situations and to work in competition with others.

To this end, SSA's regulations provide that in order to find that a claimant whose sustained work capability is limited to light work or less and who is close to retirement age (60-64) possesses skills that can be used in (transferred to) other work, "there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry." 20 CFR Part 404, Subpart P, Appendix 2, section 202.00(f). SSA's regulations provide the same rule for a claimant whose sustained work capability is limited to sedentary work and who is of advanced age (55 or over). 20 CFR Part 404, Subpart P, Appendix 2, section 201.00(f). If the claimant's skills are transferable to other work under this standard, SSA will consider such skills "highly marketable" under 20 CFR 404.1563(d) and 416.963(d).

SSA's regulations do not require a finding that a claimant's skills are specialized and coveted so as to offset the disadvantage that advancing age may present in obtaining employment. Instead, SSA's regulations require that a claimant (of any age) be found not disabled if his or her residual functional capacity and vocational abilities enable him or her to work, but he or she remains unemployed because of the hiring practices of employers. The evaluation of disability is based on the ability to perform jobs in the national economy and not the ability to obtain them, 20 CFR 404.1566(c) and 416.966(c).

The Sixth Circuit's interpretation of "highly marketable" imposes requirements in contravention of the Secretary's regulations regarding the vocational relevance of a claimant's age. Specifically, the court has interpreted "highly marketable" skills in 20 CFR 404.1563(d) to mean those skills which are sufficiently specialized and coveted by employers so as to make a claimant's age irrelevant in the hiring process and enable the claimant to obtain employment with little difficulty.

Explanation of How SSA Will Apply The Preslar Decision Within the Circuit

This ruling applies only where the claimant resides in Kentucky, Michigan, Ohio or Tennessee at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, ALJ hearing or Appeals Council review.

In the case of a claimant whose sustained work capability is limited to sedentary or light work as a result of a severe impairment, who is closely approaching retirement age (age 60-64), and who has skills, an adjudicator will consider the claimant's skills to be "highly marketable" only if the skills are sufficiently specialized and coveted by employers as to make the claimant's age irrelevant in the hiring process and enable the claimant to obtain employment with little difficulty. In determining whether a claimant's skills meet this definition of "highly marketable," an adjudicator will consider:

- (1) whether the skills were acquired through specialized or extensive education, training or experience; and
- (2) whether the skills give the claimant a competitive edge over other, younger, potential employees with whom the claimant would compete for jobs requiring those skills, giving consideration to the number of such jobs available and the number of individuals competing for such jobs.

SSA intends to clarify the regulations at issue in this case, 20 CFR 404.1563 and 416.963, through the rule making process and may rescind this Ruling once such clarification is made.

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DEPARTMENT OF STATE

[Public Notice 2198]

International Telecommunications Advisory Committee; Radiocommunications Sector; Study Group 8—Mobile Services; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector Study Group 8—Mobile Services will meet on 19 May 1995 at 10 AM to 1 PM, in room 1107 at the Department of State, 2201 C Street, N.W., Washington, DC 20520.

Study Group 8 studies and develops recommendations concerning technical and operating characteristics of mobile,

radiodetermination, amateur and related satellite services.

This May meeting will continue preparations for the June 12-16, 1995 international meeting of Study Group 8. It will also review activities concerning the Inter-American Telecommunication Commission Permanent Consultative Committee III—Radiocommunications, and begin preparations for the August 24-26 meeting of PCC.III.

Members of the General Public may attend the meeting and join in the discussions, subject to the instructions of the Chairman, John T. Gilsenan.

Note: In order to gain access to State Department for this meeting, please call 202-647-0201 and leave your name, your social security number, and date of birth. Please use "C" Street Entrance.

Dated: April 28, 1995.

Warren G. Richards,
Chairman, U.S. ITAC for ITU-
Radiocommunication Sector.

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UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects in the exhibit, "Claude Monet 1840-1926" (see list ¹) imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition of the objects at The Art Institute of Chicago, Chicago, Illinois from on or about July 14, 1995, to on or about November 26, 1995, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

¹ A copy of this list may be obtained by contacting Ms. Neila Sheahan of the Office of the General Counsel of USIA. The telephone number is 202/619-5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547.